

**MINUTES**  
**SCOTTSDALE CITY COUNCIL**  
**CITY COUNCIL MEETING**  
**Tuesday, April 1, 2003**

**The Kiva  
City Hall  
Scottsdale, Arizona**

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**CALL TO ORDER (IN CITY HALL KIVA FORUM)**

Mayor Manross called to order the Regular Meeting of the Scottsdale City Council on Tuesday, April 1, 2003 in the Kiva, City Hall, at 5:08 P.M.

**ROLL CALL**

Present:

Mayor Mary Manross  
Vice Mayor Ned O'Hearn  
Council Members David Ortega, Tom Silverman, Robert Littlefield,  
Wayne Ecton, and Cynthia Lukas

Also Present:

City Manager Jan Dolan  
City Attorney David Pennartz  
City Clerk Sonia Robertson

**Announcements**

Mayor Manross announced two District Advisory Task Force public meetings to be held on April 8, 2003 at 6:30 p.m. at the Via Linda Center and on April 9, 2003 at 6:00 p.m. at City Hall.

Mayor Manross listed the following events that are to be held in the month of April relating to Scottsdale celebrating Clean and Beautiful Month:

Rebuilding Together with Christmas in April – April 5  
Neighborhood Clean up Weekend – April 12 and 13  
Earth Speak Week – April 14  
Adopt-a-Road – Scottsdale Clean & Scenic – April 26

Mayor Manross also noted that on April 5<sup>th</sup>, a Hazardous Waste Collection event will be held. For more information, call 480-312-5602.

**Public Comment**

**Elaine Abts**, 8237 E. Jackrabbit Road, explained that Rural Metro was a fine fire department back when it was first started. She questioned how the public can get fair reporting on both sides of the issue when the newspaper is bias.

**Leon Spiro**, 7814 E. Oberlin Way, read a memo (copy attached) sent to Hon. JD Hayward from the legislative attorney in the American Law Division regarding rights associated with GLO easements.

**Minutes**

REGULAR MEETINGS

March 3, 2003

March 4, 2003

COUNCILMAN SILVERMAN MOVED TO APPROVE THE MINUTES OF THE MARCH 3, 2003 REGULAR MEETING AND MARCH 4, 2003 REGULAR MEETING. COUNCILWOMAN LUKAS SECONDED THE MOTION WHICH CARRIED 7/0.

**1. Tutto Benne Italian Bistro Liquor License**

**Request:** Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a permanent extension of premises for an existing restaurant. Approval of this request will add a 270 sq. ft. addition to the licensed area of the restaurant.

**Location:** 13901 N 73rd St

**Reference:** 7-EX-2003

**Staff Contact(s):** Jeff Fisher, Plan and Permit Services Interim Director, 480-312-7619, [jefisher@ScottsdaleAZ.gov](mailto:jefisher@ScottsdaleAZ.gov)

**2. Rawhide Liquor License**

**Request:** Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a person transfer of an existing series 6 (bar) State liquor license for an existing Western Theme Park.

**Location:** 23023 N Scottsdale Rd

**Reference:** 13-LL-2003

**Staff Contact(s):** Jeff Fisher, Plan and Permit Services Interim Director, 480-312-7619, [jefisher@ScottsdaleAZ.gov](mailto:jefisher@ScottsdaleAZ.gov)

**3. Restaurant Hapa Liquor License**

**Request:** Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a new series 12 (restaurant) State liquor license for an existing restaurant location.

**Location:** 6204 N Scottsdale Rd

**Reference:** 14-LL-2003

**Staff Contact(s):** Jeff Fisher, Plan and Permit Services Interim Director, 480-312-7619, [jefisher@ScottsdaleAZ.gov](mailto:jefisher@ScottsdaleAZ.gov)

**4. Los Sombreros Liquor License**

**Request:** Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a new series 12 (restaurant) State liquor license.

**Location:** 2534 N Scottsdale Rd

**Reference:** 15-LL-2003

**Staff Contact(s):** Jeff Fisher, Plan and Permit Services Interim Director, 480-312-7619, [jefisher@ScottsdaleAZ.gov](mailto:jefisher@ScottsdaleAZ.gov)

**5. Nothing But Noodles Liquor License**

**Request:** Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a person transfer of a series 07 (beer & wine bar) State liquor license for an existing beer/wine bar location.

**Location:** 9011 E Via Linda

**Reference:** 16-LL-2003

**Staff Contact(s):** Jeff Fisher, Plan and Permit Services Interim Director, 480-312-7619, [jefisher@ScottsdaleAZ.gov](mailto:jefisher@ScottsdaleAZ.gov)

**6. Treviso Abandonment**

**Request:**

1. Abandon roadway and utility easements along Standing Stones Road alignment, 106<sup>th</sup> Street alignment, and two east-west roadway alignments located just north of Stagecoach Pass Road within the proposed Treviso subdivision boundary.
2. Require right-of-way dedications along Lone Mountain Parkway and Stagecoach Pass Road as a condition of the abandonment and final plat approval.
3. Require a public trail easement and improvements along Lone Mountain Parkway as a condition of the abandonment and final plat approval.
4. Adopt Resolution No. 6271 abandoning the aforementioned roadway easements. The recordation of the Resolution shall be done simultaneously with the recordation of the final subdivision plat.

**Location:** North of Stagecoach Pass Rd, south of Standing Stones Rd, between 106th St. & 110th St alignments

**Reference:** 4-AB-2002

**Staff Contacts:** Cheryl Sumners, Senior Planner, 480-312-7834, [csumners@ScottsdaleAZ.gov](mailto:csumners@ScottsdaleAZ.gov)

**7. Treviso Final Plat**

**Request:** Approve 96 residential lots with amended development standards.

**Location:** Stage Coach Pass & Lone Mountain Pkwy

**Reference:** 13-PP-2000

**Staff Contact(s):** Al Ward, Senior Planner, 480-312-7067, [award@ScottsdaleAZ.gov](mailto:award@ScottsdaleAZ.gov)

**8. REMOVED FROM THE CONSENT AGENDA FOR SEPARATE DISCUSSION. SEE PAGE 7**

**\*\*\*9. Mountainside Plaza \*\*\*Final\*\*\* Plat**

**Request:** Approve a \*\*\*Final\*\*\* Plat

**Location:** NEC 116th Street & Shea Blvd

**Reference:** 23-PP-2002

**Staff Contact(s):** Kira Wauwie AICP, Project Coordination Manager, 480-312-7061, [kwauwie@ScottsdaleAZ.gov](mailto:kwauwie@ScottsdaleAZ.gov)

**10. Whisper Rock Rezoning and Development Agreement**

**Request:**

1. To rezone from Resort/Townhouse Residential, Environmentally Sensitive Lands (R-4R ESL), Single Family Residential, Environmentally Sensitive Lands (R1-43 ESL), Single Family Residential, Environmentally Sensitive Lands (R1-130 ESL) to Resort/Townhouse Residential, Environmentally Sensitive Lands, Planned Community District (R-4R, ESL, PCD), Single Family Residential, Environmentally Sensitive Lands, Planned Community District (R1-43, ESL, PCD), Single Family

- Residential, Environmentally Sensitive Lands, Planned Community District (R1-130, ESL, PCD) and
2. To revise the approved Amended Development Standards for Resort/Townhouse Residential, Environmentally Sensitive Lands (R-4R ESL) and
  3. To revise the approved Development Agreement on a 10+/- acre parcel located near Hayden Road and Ashler Hills Road (extended)
  4. A revision to an approved conditional use permit for a golf course on a 330 +/- acre parcel located near Hayden Road and Ashler Hills Road
  5. Adopt Ordinance No. 3499 affirming the above rezoning.
  6. Adopt Resolution No. 6264 affirming the Development Agreement No. 2001-023-COSA

**Location:** E Lone Mountain Rd/n Scottsdale Rd (ne)

**Reference:** 29-ZN-2000#2 & 4-UP-1999#3

**Staff Contacts:** Kira Wauwie AICP, Project Coordination Manager, 480-312-7061, [kwauwie@ScottsdaleAZ.gov](mailto:kwauwie@ScottsdaleAZ.gov)

City Attorney Pennartz noted that staff handed out a corrective Ordinance on this item since Sections 1 (acreage) and 4 (district) listed incorrect information. If approved, he noted that this item should be approved as amended.

**11. Alltel Communications At Troon North Use Permit**

**Request:** Approve a conditional use permit for a personal wireless service facility located at the northeast corner of Dynamite Blvd and N 114th St. with Single-Family Residential, Environmentally Sensitive District (R1-18, ESL) zoning.

**Location:** E Dynamite Blvd/ N. 114th St. (Northeast Corner)

**Reference:** 28-UP-2002

**Staff Contact(s):** Bill Verschuren, Senior Planner, 480-312-7734, [bverschuren@ScottsdaleAZ.gov](mailto:bverschuren@ScottsdaleAZ.gov)

Councilman Silverman asked if the resident who opposes this action is in the audience or if anyone knows why he believes approval of this action would cause a hazard to his property. He was not in the audience. Mr. Grant explained that staff learned today of the objection. He noted that staff would follow up with the resident.

**12. Edufit Use Permit**

**Request:** Approve a conditional use permit for a health studio within one suite of the existing shopping center located at the northeast corner of Scottsdale Road and Pinnacle Peak Road (23425 N Scottsdale Road) with Central Business District (C-2) zoning

**Location:** 23425 N Scottsdale Rd

**Reference:** 29-UP-2002

**Staff Contact(s):** Bill Verschuren, Senior Planner, 480-312-7734, [bverschuren@ScottsdaleAZ.gov](mailto:bverschuren@ScottsdaleAZ.gov)

**13. Intergovernmental Agreement between Cities of Phoenix and Scottsdale for joint management of shared groundwater resources**

**Request:** Adopt Resolution No. 6251 authorizing the execution of Agreement No. 2003-024-COS.

Authorize execution of Intergovernmental Agreement No. 2003-024-COS with the City of Phoenix. This Agreement provides for the development of a joint database and conducting groundwater modeling in order to develop an action plan. This aquifer

management plan will contain a strategy for the joint management of the groundwater resource utilized by both Phoenix and Scottsdale for water supply purposes.

**Staff Contact(s):** Beth Miller, Water Resources Advisor, (480) 312-5009, [emiller@ci.scottsdale.az.us](mailto:emiller@ci.scottsdale.az.us)

**14. Adoption of Adjusted Water, Water Resources and Sewer Development Fees**

**Request:** Adopt Ordinance No. 3496, Water Development, Water Resources Development and Sewer Development Fees adjusted with a construction cost index increase of 2.4% for Fiscal Year 2003-2004, effective July 1, 2003.

**Staff Contact(s):** David M. Mansfield, Water Resources General Manager (480)-312-5681.  
[dmansfield@ScottsdaleAz.gov](mailto:dmansfield@ScottsdaleAz.gov)

**15. Intergovernmental Agreement for Disaster and Emergency Management between Maricopa County and the City of Scottsdale**

**Request:**

1. Adopt Resolution No. 6269, authorizing the City of Scottsdale to enter into an Intergovernmental Agreement with Maricopa County to provide for common and cooperative planning and action in the event of emergencies and natural disasters.
2. Authorize Intergovernmental Agreement No. 2003-043-COS.

**Staff Contact(s):** Marc Eisen, Emergency Services Director, 480-312-7999, [meisen@ScottsdaleAZ.gov](mailto:meisen@ScottsdaleAZ.gov)

**16. Land acquisition for the McDowell Sonoran Preserve**

**Request:** Adopt Resolution No. 6275 authorizing purchase in the amount of \$908,650 (\$47,500/acre) for the 19.13-acre Parcel No. 217-09-018A, located at 12535 E. Pinnacle Peak Road, for the McDowell Sonoran Preserve. The proposed purchase price represents the property owner's February 2003, counter offer to the city's August 2000, offer to purchase at \$803,500 (\$42,000/acre).

**Related Policies, References:** The parcel is within the expanded Recommended Study Boundary approved in August 1998, by City Council and in November 1998, by voters. The acquisition of this land supports City Council Broad Goal B: Preserve the Character and Environment of Scottsdale, and two sub-goals under Goal B: Complete the acquisition of lands within the adopted Preserve boundaries; and Protect natural resources, open spaces and views.

**Staff Contact(s):** Robert J. Cafarella, AICP, Director, Preservation Division, 480-312-2577 ([rcafarella@ScottsdaleAZ.gov](mailto:rcafarella@ScottsdaleAZ.gov))

Mayor Manross opened public testimony.

**Leon Spiro**, 7814 E. Oberlin Way, wondered if the city is going to accept the offer made by the seller since it is more than \$100,000 over the appraised value of the land. He stated his understanding that the property is great for mountain goats. He questioned why the city isn't proceeding with the same process it followed with other property owners who didn't want to sell their property.

Mayor Manross closed public testimony.

COUNCILMAN ORTEGA MOVED TO APPROVE CONSENT ITEMS 1-7, 9, 10 (AS AMENDED), AND 11-16. COUNCILMAN ECTON SECONDED THE MOTION WHICH CARRIED 7/0.

## ITEMS REMOVED FROM THE CONSENT AGENDA FOR SEPARATE DISCUSSION

### 8. Saguaro Estates Final Plat

**Request:** Approve a Final Plat

**Location:** Southwest Corner of Dynamite Blvd & Scottsdale Road

**Reference:** 5-PP-2001#2

**Staff Contact(s):** Jayna Shewak, Project Coordination Manager, 480-312-7059, [jshewak@ScottsdaleAZ.gov](mailto:jshewak@ScottsdaleAZ.gov)

Mayor Manross opened public testimony.

**Leon Spiro**, 7814 E. Oberlin Way, questioned if the Planning Commission heard this case. He wondered why staff never requested a portion of the property for a future park or library. He urged Council to deny this request.

Mayor Manross closed public testimony. She noted that the case was heard by the DRB (Design Review Board).

Mr. Grant explained that this is a 160-acre parcel with 88 proposed dwelling units. There are trails dedicated through the site. He stated that it was first approved in 2001. When the approval lapsed, it went through the DRB process early this year. They recommended approval of the preliminary plat with the stipulation that a trail easement be granted on the wash that runs through the site. In terms of park dedication, it was not felt that a park was needed on the site.

In response to questions from Councilman Silverman, Mr. Grant explained that during the first approval process, the trail was on the perimeter of the property; however, during the second approval process the trail was added to the wash. He further clarified that a drainage report indicated some reduction on the site in drainage. He noted that the bottom line is that the development meets the Drainage Ordinance requirements.

COUNCILMAN SILVERMAN MOVED TO APPROVE THE FINAL PLAT FOR SAGUARO ESTATES (5-PP-2001-#2). COUNCILWOMAN LUKAS SECONDED THE MOTION WHICH CARRIED 7/0.

## REGULAR AGENDA

### 17. Text Amendment/ESLO II

**Request:**

1. Amend Ordinance 455 (Zoning Ordinance) Article III. Definitions.; Section 3.100., General.; Article VI. Supplementary Districts.; Section 6.1010. Environmentally Sensitive Lands Ordinance (ESLO).; Section 6.1011. Purpose.; Section 6.1020. Applicability of Regulations.; Section 6.1021. Applicable Districts and Conditions.; Section 6.1050. Intensity of Development.; Section 6.1060. Open Space Requirements.; Section 6.1070. Design Standards.; Section 6.1071. Design Guidelines.; Section 6.1083. Amended Development Standards.; Section 6.1090. ESL Submittal Requirements.; Section 6.1091. All Applications.; Section 6.1110. Appeals. This covers approximately 134 square miles of desert and mountain areas of Scottsdale and is located north and east of the Central Arizona Project (CAP) Canal.
2. Adopt Ordinance No. 3501 affirming the above text amendment.

3. Adopt Resolution No. 6278 declaring the above text amendment a public record.

**Location:** City-Wide

**Reference:** 11-TA-2000#2

**Staff Contact(s):** Jerry Stabley, Senior Development Planner, 480-312-7872,  
[jstabley@ScottsdaleAZ.gov](mailto:jstabley@ScottsdaleAZ.gov)

Randy Grant presented a brief slide presentation, which has been outlined below.

### **Environmentally Sensitive Lands Ordinance ESLO-2 Update - 11-TA-2000#2**

#### **Background**

- ESLO-1, Adopted in 1991
- ESLO-2, Adopted Dec. 2001
  - 2 year process
  - Extensive citizen input
  - EQAB oversight

#### **Purpose**

- Council requested review of ESLO-2 at the time of adoption
  - How well it is working?
  - Are revisions necessary?

#### **Process**

- Feedback from:
  - Citizens
  - Applicants, developers
  - Open house meetings
  - Community input
- Staff Review of Plats/DRB applications
- Analysis of how ESLO-2 is working
- Development of recommendations
- Review by EQAB



### **Feedback from Citizens and Applicants**

- Some feel policies are too broad: example, concerns about the 35% LRV exterior color too restrictive, limiting color options
- Some feel policies should be expanded:
  - Greater use restrictions outside of construction envelopes
  - Restricting changes to small washes

### **Community Input**

- Letters mailed to 1,500 property owners
- Public notice in newspapers
- Press release: overview of changes
- Website: information sheet, open house location, dates and times
- Interested citizens and community groups list: 360 names
- Three Open Houses: 62 people attended

### **Issues to be Addressed**

- Housekeeping Changes
  - Graphics and Definitions
  - Allow NAOS reductions in HC areas
  - Hazards within Hillside Landform-DRB
  - Refine Landform Map revision process
  - Modify Development Design Standards
- Churches and Institutional Building Heights
- Foothills Overlay Consistency
- Future Revisions

### **Boulder Feature Definition**

“ is exposed bedrock or bedrock clusters produced by the weathering of granite or other bedrock which is categorized as a single boulder formation, being a primarily single, solid rock formation that has at least one (1) dimension of (25) twenty-five feet or more across, and a height at one point above the surrounding terrain of (20) feet or more.”

### **Modify Development Design Standards**

- Materials that are likely to be high gloss, shall be textured or treated to be non-reflective
- Equipment cabinet boxes may be either painted (35% LRV) or screened from adjacent properties

### **Height for Churches and Institutional Buildings**

- Existing Ordinance, all buildings in ESLO Single-family districts shall be 26 feet
- Foothills Overlay, residences 24 feet, churches and institutional buildings are 24 feet, but churches may go up to 40 feet on 10 acre lots
- Staff recommendation to Planning Commission: 30 feet + 15 feet for towers or steeples
- Option: 26 feet + 15 feet for towers or steeples
- Planning Commission recommendation: 26 feet

### **Why Greater Heights?**

- Churches:
  - Assembly areas
  - Gymnasiums
  - General church policies or requirements for overall height for towers and steeples
- Schools:
  - Auditoriums
  - Gymnasiums
  - Cafeterias

In response to questions from Councilman Ortega, Mr. Grant explained that school districts are actually a separate jurisdiction. Although the districts have been very accommodating in terms of going through the DRB process, the city does not have the ability to enforce the ordinance regarding school districts. He clarified that the schools have been willing to work within the current 45' limitation.

### **Churches and Institutional Building Heights in ESLO**

- ESLO
- 26 feet maximum or,
- 26 feet plus 15 feet or,
- 30 feet plus 15 feet

### **Foothills Overlay Consistency**

- ESL Ordinance: If there is a conflict between ESL and any other provision of the Zoning Ordinance, the ESL regulations shall prevail.
- Prevents application of 24-foot building height in the Foothills Overlay, unless Ordinance is modified

Proposal: Amend ESL to state: "The maximum building height in single-family residential (R1) districts shall be twenty-six (26) feet. If there is another overlay in place that has more restrictive standards, then those standards shall apply."

### **Consistency of ESLO and Foothills Overlay**

- Residential: ESLO 26' FO 24'
- Churches and Institutional Buildings: FO 24' plus 16' on parcels over 10 acres plus additional setbacks, ESLO ?
- Currently ESLO takes precedent over FO, relaxes setbacks
- Recommendation: most restrictive policy applies

### **Future Revisions**

- The ESLO-2 revisions, which were completed last year, included a 2 year public dialogue process
- Some citizens want a major revision at this time
- EQAB, which was the citizen group that managed the rewrite of ESLO-2 recommended that the Ordinance have a full review in 2 years, after more projects are completed under ESLO-2

Mr. Grant explained that due to feedback received, an evaluation of drainage and environmental issues will be discussed by the Planning Commission on April 8<sup>th</sup>. He suggested that staff bring this issue back to Council after summer break to report additional findings and receive additional direction on potential ordinance language.

### **Environmental Quality Advisory Board Input**

- Met on Feb. 19, 2003 to review changes
- Voted unanimously to support proposed changes
- Including church heights of 30 and 45 feet, per staff recommendation

### **Planning Commission Recommendation**

- Hearing on Feb. 26, 2003
- Voted to recommend approval: 5-1
- Amendment added: Churches should be limited to 26 feet in height, which includes towers

Mayor Manross opened public testimony.

**Sam West**, 8160 N. Hayden, #J-210, complimented Council for the support they have given to staff regarding this issue. He recommended a 24' height limitation for churches, however, allow the steeple to go higher. He encouraged Council to give direction to staff to come back as soon as possible to receive additional comments and direction especially on the relationship between the ESLO and city's drainage ordinance. He urged Council to get citizens involved in the process as well.

**Tony Nelssen**, 7736 E. Redbird Road, stressed that the purpose of the ordinance is to enhance and protect the desert environment. He questioned why Council would allow exceptions since there is a process available to them to request an exception and mitigate neighborhood differences. He urged Council to accept the proposed language to allow the Desert Foothills Overlay to take precedent over the ESLO.

**Howard Myers**, 6631 E. Horned Owl Trail, expressed his opinion that staff's changes are good but don't address the weaknesses in the existing ordinance. He felt that the protection of certain areas of the desert is currently not achieved adequately. He stated his belief that if the city protects washes and ties it to the NAOS requirement, the goals of the ordinance would be accomplished. He agreed that churches should be required to have the same height restriction as other buildings. He displayed several pictures that he felt illustrate the weaknesses in the current ordinance.

**Bob Vairo**, 10040 E. Happy Valley Road, #451, spoke as a representative of the Coalition of Pinnacle Peak. He noted that his organization is pleased to see the efforts to strengthen the ordinance since it is one of the most important ordinances on the city books to protect the environment. He agreed that certain aspects of the ordinance still need attention in order to address the fundamental issues. The issues that he felt were key to the successful application of the ordinance include the protection of wildlife corridors, natural drainage features, and maximizing NAOS. He stressed the importance of building envelopes and his support of the 24' foot building height restriction. He recommended that Council approve the proposal as they desire and provide direction to staff to come back within a certain timeframe to tighten the ordinance further.

**Aaron Taylor**, 1701 East Gold Dust Avenue, Phoenix, spoke as a representative for DeBartolo Architects. He noted that his firm is in the process of preparing for a DRB (Design Review Board) submittal for a church to be built on property that is zoned R1-190 in the ESL (Environmentally Sensitive Lands) and Foothill Overlay area. He requested flexibility for churches taking into consideration the institutions unique needs.

Mayor Manross closed public testimony. Two additional cards were received in support of the proposed changes to the ordinance from residents who did not wish to speak.

In response to questions from Vice Mayor O'Hearn, Mr. Grant disagreed that there is a fundamental flaw in the validity of the ordinance. He agreed that whatever the city can do to more closely associate the ELSO and natural area open space to more tangible public safety, health, and welfare benefits would be an advantage to any legal challenge. The premise of both the Hillside Ordinance and ESL is that there is a fundamental and intrinsic value of the natural area open space given the uniqueness of the environment if it has any one of a number of environmental considerations. He felt that to restrict natural area open space to strictly drainage would be a limitation on those properties where drainage is not a factor.

Mr. Grant explained that the city currently has a requirement for building envelopes on lots that have on lot NAOS, which are approx. 50-60% of the cases that come forward. The NAOS is a portion of the site that must remain undisturbed, which implies that there are other portions of the site that do not have to remain undisturbed. If the NAOS is being provided in a common tract and there is no proposal for NAOS on individual lots, technically, they have the ability to place what they like on the lots since the lots are not protected as part of their dedication.

Mr. Grant stated that staff could certainly look at adding a building envelope requirement on other types of plats where common area dedications are made; however, if NAOS isn't indicated on a portion of the property, there is some inherent ability to use that portion of the property.

Mr. Grant further clarified for Vice Mayor O'Hearn that the issue of perimeter walls was discussed during the ESLO II process. From a security standpoint for a subdivision, many subdivisions desired to have a perimeter wall for security purposes. The challenge in allowing perimeter walls is to configure the open space in such a way that it could be maintained out in the open and still provide security on a lot-by-lot basis for citizens within the subdivision. Currently, if a perimeter wall is requested around the subdivision, the requirements must be met for drainage through an opening in the wall.

Mr. Grant verified for Vice Mayor O'Hearn that staff could certainly bring the issue of boulder definition back to Council as a discussion item. He noted that the density bonus is available from R1-43 zoning and larger.

Vice Mayor O'Hearn listed the issues to be brought back to Council for discussion as including flood, building envelopes, NAOS, wildlife corridor, walls, status of the density bonus, and the smaller boulder issues.

Councilman Ecton explained his belief that there are still gaps in achieving what the ordinances are suppose to do. He agreed that it does not protect the wildlife, control perimeter walls, eliminate total balding, control drainage, or protect the NAOS legal basis. He also expressed his support for the 24' maximum height limit being applied across the board.

Bill Erickson, Flood Plain Administrator, spoke in response to a request from Councilman Ecton. He explained his belief that the city must consider ESL and drainage as being compatible components of the city code. He explained that it would be a good time to supplement the ESL Ordinance.

Deputy City Manager Ed Gawf explained that staff would look at both the ESL and Drainage Ordinances to ensure that any changes would work together. He assured Council that staff is committed to ensure that coordination occurs between flood control, drainage and planning during the review and resolution of these issues.

In response to questions from Councilman Littlefield, City Attorney Pennartz confirmed that churches are allowed, under state statute, to request a variance or exemption from the requirement of a local code or ordinance if they believe it prevents them from carrying out their mission or presents an undue hardship. He noted that the request is reviewed on a case-by-case basis.

Deputy City Manager Ed Gawf summarized the list of items that staff would review and bring back to Council for further direction including: 1) the relationship between ESL and drainage, 2) the issue of wildlife corridors, 3) perimeter walls, and 4) building envelopes. He suggested that staff could come back in September with a status report at the very least.

In response to questions by Councilman Littlefield, Mr. Erickson explained that the desert environment is extremely fragile where washes can be cut off by development, roadwork, water lines, or even a wildlife trail.

Councilwoman Lukas agreed that the ordinance could be improved to better reach its goals. She stated her support for the more restrictive regulations being applied when there is a conflict between the ordinance and an overlay, for a consistent building height regulation with a variance process for churches, to include additional building envelope requirements, and to look at the compatibility between the Drainage and ESL Ordinances.

Councilman Ortega expressed concern that having a uniformed maximum height of 24' for buildings would have a negative impact on churches. He pointed out that a home is quite different than an assembly space; therefore, he would support flexibility in the height restriction for churches. He requested a report from staff indicating plats that have been proposed since the ordinance was revised approximately one and a half years ago.

Vice Mayor O'Hearn questioned if meaningful open space could really be achieved on a R1-43 lot in order to grant an applicant greater density. Secondly, he asked staff to review the possibility of preserving smaller boulder features. He stated his support of a consistent 24' height for buildings with a variance process in place that would allow an applicant to request a variance based on a specific hardship.

Mayor Manross explained that we need to keep in mind the concept of clustering when talking about density. When clustering occurs, it is an opportunity to make the NAOS have more of an impact. As far

as the height restrictions, she stated her belief that there needs to be an opportunity for institutional uses to make a statement.

Councilman Silverman stressed his belief that buildings must fit the terrain within the ESLO areas. He pointed out that he has seen first hand the tremendous effect improper grading can have on washes and other lots. He stated his support for a consistent 24' maximum building height since there is a process in place to apply for a variance.

COUNCILMAN ECTON MOVED TO AMEND ORDINANCE 455, ADOPT ORDINANCE NO. 3501, AND RESOLUTION NO. 6278 WITH THE RESTRICTION LIMITING BUILDINGS TO 24', AND FURTHER DIRECTING STAFF TO BRING THE ADDITIONAL ISSUES RAISED BACK TO COUNCIL IN 6 MONTHS. COUNCLMAN ORTEGA SECONDED THE MOTION WHICH CARRIED 7/0.

#### **18. Hotel Valley Ho Historic Preservation Plan**

##### **Request:**

1. Approve the Hotel Valley Ho Historic Preservation (HP) Plan, excluding the section describing a framework for possible financial incentives, and
2. Approve amended development standards for the Hotel Valley Ho for building height, frontage open space requirements, and front yard parking setback, and
3. Adopt Ordinance No. 3502 affirming the HP Plan and amended development standards for the Hotel Valley Ho for a 8.86+/- acre property, located at 6850 E. Main Street, with Highway Commercial, Historic Property (C-3 HP) zoning.

**Location:** 6850 E. Main Street

**Reference:** 1-HP-2003 and 7-ZN-2002#2

**Staff Contact(s):** Don Meserve, AICP, Preservation Planner, Preservation Division,  
(480) 312-2523

[dmeserve@scottsdaleaz.gov](mailto:dmeserve@scottsdaleaz.gov)

Debbie Able, Preservation Officer, introduced the item with a brief slide presentation, which has been outlined below.

#### **Hotel Valley Ho Historic Preservation Plan with Amended Development Standards 7-ZN-2002#2 and 1-HP-2003**

##### **Request: Adopt Ord. #3502**

- Approve Hotel Valley Ho Historic Preservation Plan (excluding financial incentives), and
- Approve Amended Development Standards
  - ◆ For building height, frontage open space and parking lot setback

##### **Hotel Valley Ho's Exceptional Significance**

- Resort hotel associated with Scottsdale's development as an arts colony & tourist destination
- Significance to community recognized with HP Zoning in July 2002
- Nationally recognized for exceptional significance

### **Evolution of a Historic Property**

- Historic preservation is not about freezing a property in time
- Maintain significant features while allowing property to evolve over time
- Keep property in an economically viable use

### **Why do an HP Plan?**

- Basis is to ensure character-defining features preserved while providing for appropriate change over time
- Mandated by ordinance for properties with HP overlay zoning
- Historic resources merit special treatment because they are a community asset
- Identifies objectives and policies to meet City's preservation goals
- Plan content dependent upon specific needs, character, and opportunities of the historic property

### **What is in Design Review Section?**

- Character-Defining Features
  - ◆ Specific characteristics to be protected and maintained because they distinguish the property
- Design Guidelines
  - ◆ Guidelines for rehabilitation, additions, and new construction/development
  - ◆ Used by HPC to review applications
  - ◆ Guides the review process for Certificate of No Effect or Certificate of Appropriateness

### **What City Support is Proposed?**

- Four Categories of public action:
  - ◆ Technical
  - ◆ Developmental
  - ◆ Financial
  - ◆ Promotional
- HP Commission Incentives Recommendations, presented to City Council 3/3/03, used as guide

### **HP Ordinance Provides for the Amendment of City Standards**

- Restricted to HP properties
- Purpose of amendments - preserve and maintain historic resources/features better than existing standards
  - ◆ Existing standards may conflict with preservation objectives
- Part of City Preservation Support
  - ◆ Developmental Support category
- Process like HP zoning > HPC, PC & CC

### **Amended Standards – Building Height**

- Limited to single location where planned in original 1956 drawings and where foundation exists for the additional floors
- Additional floors increase economic viability of historic resort hotel rehabilitation and allow character defining wings to remain intact
- Proposed 65' height supported by General Plan & comparable to Type 2 Development

### **Amended Standards – Frontage Open Space**

- Historic site plan had landscaping and courtyards throughout the site

### **Frontage Open Space**

- Overall open space provided on site exceeds requirements by over 50%

#### **Amended Standards – Parking Setback**

- Historic plan had parking along the perimeter of the site and landscaping throughout the interior

#### **Parking Setback**

- Amendment recognizes historic locations of parking
- Parking spaces along street frontages decrease in proposed site plan

#### **Financial Incentives**

- Not included in this request
- Financial incentives included in HP Plan for information
- Financial incentives will be considered separately through a Development Agreement at a future hearing

#### **Extensive Citizen Involvement**

- Numerous public meetings by HP Commission and owner; several public hearings
- ◆ General Involvement
  - ◆ Specific Valley Ho Involvement

#### **General Citizen Involvement**

- Numerous public meetings and presentations by HP Commission on downtown survey and incentives
  - ◆ Fall 2001 lecture series at Civic Center Library on Post World War II architecture
  - ◆ Early 2002 public open houses at Scottsdale Artist's School on downtown historic survey results
  - ◆ Progress reports on survey results and proposed incentives to Scottsdale Historical Society, Scottsdale Downtown Partnership, and other interested groups

#### **Specific Valley Ho Involvement**

- Numerous public meetings/public hearings on recent and current Hotel Valley Ho cases
  - ◆ Early 2002 open houses/hearings on HP zoning and designating Hotel Valley Ho on register
  - ◆ Fall meetings/hearings on Main Street abandonment
  - ◆ Fall 2002 HPC meetings/hearing on design review and Certificate of Appropriateness
  - ◆ 2003 meetings on amended standards, HP Plan, latest plans by owner/architect > HPC and PC hearings
  - ◆ Owner meetings/open houses with residents of Southwest Village, Scottsdale Palms and others

#### **Conclusion**

- HPO/Staff Recommendation – Approve
- HPC Recommendation 2/13 – Approve
- PC Recommendation 2/26 - Approve
- Owner – Supports HP Plan with amended standards

The property owner, Scott Lyons, explained that the team he has assembled specializes in the renovation and repositioning of unique boutique hotels. He stated his belief that the hotel will become the valley's



first high-style boutique urban resort. He noted that the project is unique in the marketplace by virtue of its colorful history, its distinctive mid-century architecture, and its low-density nature in an urban setting.

He summarized the work that has been completed since purchasing the property in May 2002. He noted that the hotel has established a website ([hotelvalleyho.com](http://hotelvalleyho.com)) that will be used to keep the neighbors informed of the progress of the renovation. He explained that he is confident that the project will be a catalyst for redevelopment of the area.

Ken Allen addressed technical issues of the amended development standards for the owner. The two site related issues involve the front yard parking setback and the front yard open space requirement. He noted that the parking spaces already exist; therefore, to comply with the current regulations would mean a reduction of parking spaces. He then pointed out that the front yard open space requirement is also a challenge due to the buildings existence; thereby, limiting the ability to conform to the ordinance requirements. He stressed that the entire site is very open with over 50% of the site or 4.2 acres being open space.

Mr. Allen explained that the third requested amended development standard deals with their request to raise the building to its originally intended height. He pointed out that the building has the structure and foundation to support the additional four levels, which were planned at the location.

Mayor Manross opened public testimony.

**Leon Spiro**, 7814 E. Oberlin Way, explained that he is not in favor or against this request. He noted that he wanted everyone to know that he submitted a comment card to speak on item 16 and was denied his right to comment before Council voted on the item. He questioned if this was a violation of the open meeting law.

Mayor Manross explained that item 16 was a Consent Agenda item. She further explained to Mr. Spiro that his card stuck to the back of another card causing her to overlook his card until after the item was voted on.

**Jane Fallek**, 6633 E. 2<sup>nd</sup> Street, explained that she is president of the Southwest Village Neighborhood Association and spoke on behalf of her neighborhood. She stated that Mr. Lyons met with their neighborhood several months ago to discuss his plans for the renovation of the hotel. She urged Council to vote in favor of the requests.

Mayor Manross closed public testimony.

Councilman Silverman questioned how many rooms would be added to the hotel with the current renovation plans. Mr. Lyons explained that currently there are 180 rooms north of Main Street; however, they have yet to determine how many of the floors will be allocated to residential and/or to rooms. He stated that there plan in Phase I is to keep the number to 96 rooms and utilize the tower for residential that could be put into rental and utilized by the hotel as additional inventory.

After further discussion, Council members agreed that the project would be a unique attraction and be a catalyst for revitalization in the area.

In response to questions from Vice Mayor O'Hearn, Bob Cafarella explained that staff hopes to bring back a financial package with incentives for Council's consideration within the next few months.

COUNCILMAN SILVERMAN MOVED TO **APPROVE** THE HOTEL VALLEY HO HISTORIC PRESERVATION (HP) PLAN, EXCLUDING THE SECTION DESCRIBING A FRAMEWORK FOR POSSIBLE FINANCIAL INCENTIVES, AND **APPROVE** AMENDED DEVELOPMENT STANDARDS FOR THE HOTEL VALLEY HO FOR BUILDING HEIGHT, FRONTAGE OPEN SPACE REQUIREMENTS, AND FRONT YARD PARKING SETBACK, AND **ADOPT** ORDINANCE NO. 3502 AFFIRMING THE HP PLAN AND AMENDED DEVELOPMENT STANDARDS FOR THE HOTEL VALLEY HO FOR A 8.86+/- ACRE PROPERTY, LOCATED AT 6850 E. MAIN STREET, WITH HIGHWAY COMMERCIAL, HISTORIC PROPERTY (C-3 HP) ZONING. (1-HP-2003 AND 7-ZN-2002#2) COUNCILMAN ECTON SECONDED THE MOTION WHICH CARRIED 7/0.

**19. Hold a Public Hearing on Bell Road II Improvement District and Adopt Resolution 6262 approving final assessments**

**Request:** Hold a Public Hearing on Bell Road II Improvement District and Adopt Resolution 6262 which approves the final recapitulated assessments for properties within the improvement district and determines that the work is complete.

**Related Policies, References:**

Resolution 5751, declaring the intention to form the improvement district, adopted by Council on February 4, 2001.

Resolution 5832, ordering work to begin within the district, adopted by Council on June 5th 2001.

Resolution 5961, Approving the Assessment Diagram and Ordering the Sale of Not to Exceed \$7.9 Million Improvement District (ID) Bonds, adopted by Council on November 5, 2001

**Staff Contact(s):** Alex McLaren, Construction and Design Director, 480-312-7099, [amclaren@ci.scottsdale.az.us](mailto:amclaren@ci.scottsdale.az.us)

Mayor Manross introduced this item as a public hearing regarding the Bell Road II Improvement District and consideration to adopt a resolution approving the final assessments on the district.

Mayor Manross opened public testimony.

**Leon Spiro**, 7814 E. Oberlin Way, pointed out that he doesn't believe Council understands what is going on with this item. He explained that this improvement district is an assemblage of GLO parcels, which he is opposed to. He stated his belief that the city would be approving construction on the GLO easements that are not part of this roadway plan assessment. He reminded Council that he read the memo to Hon. JD Hayward pertaining to GLO easements. He suggested that the city include a disclaimer of liability with each building construction permit that calls for building on the GLO easements. He urged Council to get an expert opinion on the rights associated with the easements and questioned the city's liability if buildings are constructed on the easements.

Since no other interested parties wished to speak, Mayor Manross closed public testimony.

Vice Mayor O'Hearn pointed out that the city attorney has assured Council that they have the right to abandon the public portion of the GLO easements. He explained that the logic behind this action is to encourage creative development not grid pattern development.

Councilman Ortega explained that the improvement district is a great example of pay-as-go development. The developers and property owners in the area funded the infrastructure. By assembling as a group, they

were able to provide convenience to the McDowell Mountain Ranch Community so they would have an additional outlet.

COUNCILWOMAN LUKAS MOVED TO ADOPT RESOLUTION 6262 WHICH APPROVES THE FINAL RECAPITULATED ASSESSMENTS FOR PROPERTIES WITHIN THE IMPROVEMENT DISTRICT AND DETERMINES THAT THE WORK IS COMPLETE. COUNCILMAN ORTEGA SECONDED THE MOTION WHICH CARRIED 7/0.

**Public Comment - None**

**City Manager's Report - None**

**Mayor and Council Items - None**

**Adjournment**

With no further business to discuss, Mayor Manross adjourned the meeting at 7:58 P.M.

**SUBMITTED BY:**

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**Ann Eyerly, Council Recorder**

**REVIEWED BY:**

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**Sonia Robertson, City Clerk**

## **C E R T I F I C A T E**

I hereby certify that the foregoing Minutes are a true and correct copy of the Minutes of the Regular City Council Meeting of the City Council of Scottsdale, Arizona held on the 1st day of April 2003.

I further certify that the meeting was duly called and held, and that a quorum was present.

**DATED** this \_\_\_\_\_ day of April 2003.

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**SONIA ROBERTSON**  
City Clerk